

Remarks/Arguments

The Examiner is thanked for the Official Action dated April 21, 2004. The Examiner is also thanked for the personal interview of June 3, 2004. The Examiner's response has been carefully studied, and the arguments advanced here are in response to the Examiner's comments and actions.

The Examiner withdrew the finality of the previous Office action, reopened prosecution and introduced new ground of rejection. Furthermore, the Examiner made the Office Action of April 21, 2004 containing a new ground of rejection final alleging that the applicant's amendment necessitated the new ground of rejection presented in the above Office Action. However, contrary to the Examiner's allegations, the last applicant's amendment of December 30, 2003 submitted concurrent with an Appeal Brief, only corrected a typographical error in claim 1, pursuant to 37 CFR 1.116. Thus, the new ground of rejection was not necessitated by amendment. Moreover, the Examiner himself admitted that he withdrew the finality of the previous Office action and reopened prosecution solely on the basis that he misinterpreted the means-plus-function recitation of claim 1 (see page 2, lines 1-4 and page 3, lines 8-11 of the Office Action dated April 21, 2004). Neither the new ground of rejection was based on information presented in an information disclosure statement under 37 CFR 1.97(c) where no statement under 37 CFR 1.97(e) was filed. See MPEP § 706.07(a) and 1208.02.

Therefore, Applicant respectfully requests to withdraw the finality of the previous Office action of April 21, 2004.

Regarding the Examiner's request to identify the valve or valves constituting the "switching means for selectively routing fluid flow between one of and both the first and second evaporators depending on a required cooling power", please be advised that with regard to the embodiment of Fig. 1, the switching means of claim 1 includes only the stop valve 18. However, with regard to the embodiment of Fig. 4, the switching means of claim 1 includes the stop valve 18 and the three-channel valves 30 and 50. The function of the valve 18 is described on page 6, lines 20-25. The function of the valve 30 is described on page 7, lines 7-16. The function of the valve 50 is described on page 8, line 34 - page 9, line 11.

Claims 1-3, 11, 14, and 15, were rejected under 35 U.S.C. 103(a) as being unpatentable over the combined teachings of JP 60-148716, EP 0964218 and Matsuoka et al. (US 4,807,445). Claims 1-4, 11, 14, and 15, were rejected under 35 U.S.C. 103(a) as being unpatentable over the combined teachings of JP 60-148716, EP 0964218 and Lehane (US 2,328,472). Applicant respectfully disagrees.

Claims 5, 8 and 9 were objected by the Examiner as being dependent upon a rejected base claim 1. The Examiner noted that claim 5 would be allowable if rewritten in independent form including all the limitations of the base claim 1 and any intervening claims.

In order to expedite the prosecution of the present application, claim 1 has been amended to incorporate all the limitations of claim 5. No new matter has been added. Claim 5 has been canceled. Claim 8 has been amended to depend upon claim 1. No new matter has been added.

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Claims 2, 11, 14 and 15 have been amended to correct minor informalities. No new matter has been added.

Therefore, it is respectfully submitted that claims 1-4, 8, 9, 11, 14 and 15 define the invention over the prior art of record and are in condition for allowance, and notice to that effect is earnestly solicited. Should the Examiner believe that additional discussion would advance the prosecution of the present application, or the Examiner has thoughts or ideas that are mutually beneficial, the Examiner is invited to contact the undersigned at the local telephone number listed.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Matthew Stavish", is written over a horizontal line.

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